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Application number: 09/534233   **Art Unit:** 3628
Applicant: Khai Hee Kwan   **Examiner:** Clement, B Graham.
Title: System and method for conducting an electronic financial asset deposit
auction over computer network

SUMMARY

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In Elan Pharmaceuticals, Inc and Athena Neurosciences, Inc Vs Mayo Foundation for Medical
Education and Research, (United States Court of Appeals for the Federal Circuit Case 00-1467,
Decided October 2, 2003), the learned judge said " The disclosure in an assertedly anticipating
reference must be adequate to enable possession of the desired subject matter. It is insufficient to
name or describe the desired subject matter, if it cannot be produced without undue
experimentation." In this instance the Examiner has applied Huberman which is an invention for
soliciting document services, a subject matter that is not related to our deposit auction as claimed
in our Claim 15 and 34 (the independent claims). The examiner did not provide any evidence how
one skilled in the art would be able to enable possession of our subject matter from Huberman. As
noted both independent claims' preamble includes the limitation of deposit. In general, a preamble
limits the claimed invention if it recites essential structure or steps, or if it is "necessary to give life,
meaning, and vitality" to the claim. Catalina Mktg., 289 F.3d at 808, 62 USPQ2d at 1784 (quoting
Pitney Bowes, Inc, v, Hewlett-Packard Co., 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed.
Cir. 1999)). Clear reliance on the preamble during prosecution to distinguish the claimed invention
from the prior art may indicate that the preamble is a claim limitation because the preamble is used
to define the claimed invention. Catalina Mktg., 289 F.3d at 808, 62 USPQ2d at 1785; Bristol-
Myers Squibb Co. v. Ben Venue Labs., Inc., 246 F.3d 1368, 1375, 58 USPQ2d 1508, 1513 (Fed.
Cir. 2001).

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We submit that because Huberman does not fairly teach this "deposit" element nor the subject
matter of deposit auction, this action must fail.

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If this is anticipated then, to serve as an anticipating reference, the reference must enable that which
it is asserted to anticipate. ("To anticipate the reference must also enable one of skill in the art to
make and use the claimed invention."); PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d
1558, 1566, 37 USPQ2d 1618, 1624 (Fed. Cir. 1996) ("To anticipate a claim, a reference must
disclose every element of the challenged claim and enable one skilled in the art to make the
anticipating subject matter."). We fail to see how a skilled artisan in the art of document service
would be able to possess the subject matter " deposit auction " from Huberman. The examiner
provided no reasoning here to support this anticipatory claim.

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We submit that in addition to failing to show " deposit ", dependent elements found our deposit
system are also not found in Huberman such as "money, securities deposit terms of offer, deposit
terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of
exchange ". As these elements are not found in Huberman, it is doubtful one skilled in the art

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would be able to anticipate the subject matter of deposit auction system, least to show said
elements without undue experimentation.

5   The standard for anticipation is rigorous requiring that every element of the claimed invention, as
arranged in the claim, be disclosed either specifically or inherently by a single prior art reference.
See Minnesota Mining & Mfg. Co. v. Johnson & Johnson Orthopaedics, Inc., 976 F.2d 1559,
1565 (Fed.Cir.1992); *Scripps*, 927 F.2d at 1576-77; *Lindemann Maschinenfabrik GMBH, v.
American Hoist & Derrick Co.*, 730 F.2d 1452, 1458 (Fed.Cir.1984). Every element of the
challenged claim need not be expressly delineated in the single prior art reference, but may be
10 inherently disclosed by prior art if "the prior art necessarily functions in accordance with the
limitations" of the challenged claim. *King*, 801 F.2d at 1326; *see also Standard Havens Prods.,
Inc. v. Gencor Indus., Inc.*, 953 F.2d 1360, 1369 (Fed.Cir.1991), *cert. denied*, 506 U.S. 817, 113
S.Ct. 60, 121 L.Ed.2d 28 (1992).

15 The examiner provided "anonymity" to be interpreted from broker process. We submit that such
interpretive method is not necessarily inherent where such anonymity must necessarily be found or
commonly known in the art document service. And even if it is known in the art of document
service auction, that by itself does not mean it is found in deposit auction, a subject matter as
mentioned not found in Huberman. The examiner provided no evidence to support both assertions.
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We therefore submit prima facie anticipation has not been made by the examiner and our claims
should be allowed. The following details our claim by claim analysis traversing the examiner's
assertions.

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Claim 15

Evidential Analysis of Examiner's determination.
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The applicant respectfully disagrees with the Examiner's assertions that Huberman discloses :

A method for soliciting competitive terms of deposit operating on a deposit auction system, said
system including a programmed computer connected to a network accessible by a plurality of users
35 within a first selected period of time and anonymity means for concealing the identities of deposit
applicants, the method executable at said computer comprising:

a) receiving deposit application from a prospective depositor who is a respective one of the users,
wherein said application comprising permissible personal information, money, securities deposit
40 terms of offer as subscribed by the prospective depositor;

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b) assigning a handle to conceal the real identity of deposit applicant and displaying it anonymously;

5   c) receiving from at least one deposit-taking institution, who is a respective one of the users communicating over the network, at least a respective one of the responsive bids for said deposit application wherein said bid comprising responsive deposit terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange: and

10   d) receiving an electronic instruction from the deposit applicant, notifying and authorizing at least one selected deposit-taking institution to access a real identity and personal information of said applicant for a second selected period of time.

In fact, Huberman actually stated that his invention is for document service (Col 7 line 44) which is 15   not related to the subject matter of deposit applications. For each of the above subsection inclusive of elements will be rebutted as below:

"A method for soliciting competitive terms of deposit operating on a deposit auction system, said system including a programmed computer connected to a network accessible by a plurality of users 20   within a first selected period of time and anonymity means for concealing the identities of deposit applicants, the method executable at said computer comprising :"

We respectfully reject the examiner assertion that Huberman anticipates our claimed invention. To anticipate every element must be shown including inherent ones. Huberman has no deposit auction 25   system or capable or suggest turning a document service request system into one of deposit auction. Our preamble shows clearly the element of deposit auction system which breaths live to the claim sections supporting the subject matter dealing with deposit facilities.

The examiner has not shown the element of anonymity or why would it be inherent for document 30   service requester to be anonymous. The fact that Huberman details a broker for such an auction service does not inherently shows its applicants/requesters are accorded anonymity nor is it known in the art that such an anonymity means must necessarily exists in an document service jobs request. The examiner presented col 3 and line 55, which shows " services job done can provide a request for these services to a broker " . The question is whether this is common for brokers to 35   receive anonymous application or request in the art ? Anonymous means the user do not wish to reveal his real identity and NOT whether broker would like it to be anonymous for its brokering purposes. The choice of anonymity must rest with the user/requester. The examiner provided no evidence or provided any reference to support this "interpretation" or take notice of this fact for us to contest contrary to the requirements of 37 CFR 1.104 . We also question whether this

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'interpretive' analysis is permissible as the examiner provided no case precedents for using this
approach. An element is anticipated if it is found to be inherent and not by any interpretative means
which we see as a broader reading and may incorporate hindsight analysis particularly when it is
unsupported here. "Inherency, however, may not be established by probabilities or possibilities. The
mere fact that a certain thing may result from a given set of circumstances is not sufficient." In re
Oelrich, 666 F.2d 578, 581, 212 U.S.P.Q. 323, 326 (C.C.P.A. 1981). The examiner provided no
evidence to support this contention to show anonymity via a broker process when there is no
similar brokering process in our claim. In short, if a brokering process is needed to show anonymity
and such brokering is not shown in our claim then the only logical conclusion is that both
inventions are not the same or identical.

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There is nothing in Huberman to even suggest anonymity. This point is particular important given
publishers (supplier) may not want to publish offensive documents and particular for books, it is
customary for the authors (applicant/requester) to seek a ISBN number which details the book
content and name of author else without this number, bookstores will not want to sell their books,
making the process of having it publish futile. In short, unless the supplier knows who the requester
is, he may not wish to bid since there may be material conflict or there is no inherent benefit for the
requester to be anonymous. The real question here is whether there is a specific need for requester
to be anonymous to protect their identities as per our deposit applicants else exposing their real
wealth given as per our claim where such applications are exposed to all parties including other
depositors. To establish inherency, the extrinsic evidence "must make clear that the missing
descriptive matter is necessarily present in the thing described in the reference, and that it would be
so recognized by persons of ordinary skill." Continental Can Co. v. Monsanto Co., 948 F.2d 1264,
1268, 20 U.S.P.Q.2d 1746, 1749 (Fed. Cir. 1991).

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Business Practicality

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It is almost universally accepted business rule for most service related business transactions to
know who the counter parties are and their credit ratings. Even though it is common practice to
ask for 10-50 % deposit prior to commencement of document service, this would still have an
impact if the balance could not be made. Therefore given the business practicality, we do not see
any reason why the supplier would bid for anonymous jobs as seemed to be suggested by the
examiner. Even if we further assume the broker guarantees the payment, (not teach by Huberman)
the supplier is contracting a service which he hopes to be paid by an anonymous requester while in
our deposit auction, the anonymous deposit applicant is providing the reward being his contacts,
two very distinctive scenario. It is only when an agreement is reached by both deposit applicant and
deposit taking institution, then funds are provided. But this process can only happened when the
real identity of the depositor is known.

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This means from the deposit taking institution's point of view, it does not matter if the identity is unknown at the time of submitting a bid since the depositing transaction is only available on receiving the funds upon acceptance. The same is not with the document service industry where it is uncommon to pay upfront to the supplier nor is it usual for full upfront payment made for yet to
5   completed service. On the other hand, a deposit taking institution is in the business of taking funds and licensed to do so hence the trust of handing funds over.

a) receiving deposit application from a prospective depositor who is a respective one of the users, wherein said application comprising permissible personal information, money, securities deposit
10   terms of offer as subscribed by the prospective depositor;

Huberman details how to solicit documents service jobs through a broker and suppliers submitting bids to the broker. The examiner provided evidence from Huberman at Col 3 line 65 and col 4 lines 5-15 which actually read on how the document requester can avoid being locked to the winner or
15   select the supplier of their choice. No mentioned is made as to whether the supplier could deny the contract, a relevant issue if the requester had been anonymous earlier as suggested by the examiner.

We failed to see how this evidence would show a deposit application comprising personal information, money and terms of offer by depositor. It is well known that a document requester
20   would only provide details on how many pages to print, where to send the printed documents etc. In Huberman, at Col 4 at line 45 showing the details required, say 100,000 copies of its annual report printed and mailed to its shareholders, particularly at line 60, number of copies, the size and paper quality, geographic distribution, time-table and any particulars that will be needed for supplier to estimate their cost for completing the job. We submit these requirements do not
25   anticipate our elements of deposit application, money, deposit terms of offer as read since the premise of our deposit application comprising say US 100,000 for 20 days starting from 10 Jan 2004 and we can accept IBM shares at US 59 in exchange for interest payable or 1000 IBM Shares for 30 days starting from 10 Jan 2004 and we can accept Gold at US 400 in exchange for interest or min interest rate of 6 percent per annum.
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How these form of elements could show or exchangeable with document service requirements are not shown by the examiner's said evidence. For a prior art reference to anticipate a claim, the reference must disclose each and every element of the claim with sufficient clarity to prove its existence in the prior art…Although this disclosure requirement presupposes the knowledge of one
35   skilled in the art of the claimed invention, that presumed knowledge does not grant a license to read into the prior art reference teachings that are not there. (Motorola, Inc V Interdigital Tech Corp., 121 F.3d 1461, 43 USPQ 2d 1481, 1490 (Fed. Cir 1997)

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b) assigning a handle to conceal the real identity of deposit applicant and displaying it anonymously;

5   The examiner provided " interpretive" and suggest Col 3 Line 55 to show anonymity means and Col 4 lines 45-65 and col 5 lines 5-30 for the latter elements of displaying application anonymously. Huberman fails to show the element of assigning a handle because this anonymity factor was never suggested by Huberman but merely interpreted by the examiner. The later provision of billing information, credit card information or funds transfer information or billing address here by itself

10   does not suggest the application is displayed anonymously whereby we claim a handle to conceal the real identity of the applicant. As we have rebutted above, there are no suggestions or evidence by the examiner to show that a broker service must necessarily means the applicant is anonymous by providing a handle. Therefore given the above, logically the "assigning a handle" could not found in Huberman.

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The evidence in Col 4 lines 45-65 and Col 5 lines 5-30 actually shows the pertinent at Line 1-3 at Col 5 " The broker can, for example, broadcast or multi-cast the job requirements to numerous suppliers who can then bid on it in a competitive auction. " Again the subject matter as per Huberman is to broadcast the printing job and not displaying an anonymous deposit application.

20   There is no suggestion that the broker is broadcasting an anonymous application or request.

Secondly, our deposit application is displayed over the network and not purported broadcasting purposes. The difference here is significant as we permissioned the deposit taking institutions accessing the system and hence able to determine the applications at their own initiative and to bid

25   at their own choice without a brokering process as per Huberman. In short, applications with handles are displayed instead of selectively broadcast to bidders through a broker process and hence this element is not meet. It is also pertinent to state that unlike Huberman which seems to teach broadcasting to a select few suppliers identified by broker process, our method actually shows the anonymous application being displayed to ALL (ie including other applicants or deposit

30   taking institutions who are not authorized to bid but nevertheless having accessed to the network) over the network without limitations. Further broadcast also suggest a transmittal means to specific targets such as known suppliers privately not compatible with displaying which is open to all over a network such as the Internet.

35   **c) receiving from at least one deposit-taking institution, who is a respective one of the users communicating over the network, at least a respective one of the responsive bids for said deposit application wherein said bid comprising responsive deposit terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange; and**

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The examiner provided Col 3 lines 45-65, Col 4 line 5-65 and Col 19 lines 45-60 and Col 20 lines 5-10) The evidence shows brokering process for document request solicitation but not for deposit application which attracts deposit taking institution. (Huberman Col 3 to Col 4 Line 1-19) The evidence of claim 1 of Huberman actually does not show deposit taking institution, submitting a bid
5 but rather supplier and reading in line with what is taught in Huberman must mean printing service providers. No evidence has been advanced to show how said supplier could be identified as deposit taking institution. We are sure that a deposit taking institution does not provide printing/document services. Therefore prima facie this has failed to reveal deposit-taking institution limitation.

10 Our claim here is specific and requires the bids to be comprising "responsive deposit terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange" while Huberman only shows " bids can be reconciled to establish a price ". We submit this 'price' does not anticipate our said elements and it is well known that a potential depositor is not interested in a price to print documents, he is interested to know what he can receive in exchange for depositing
15 his shares or money with a deposit taking institution and hence the response must be such as terms of deposit, exchange terms etc. There is no evidence to show is it commonly known in the document service industry to bid "exchange terms of deposit" responding to their clients who are requesting for a price for their document service. Therefore all the elements comprising the bid also fails to be anticipated by Huberman.
20
d) receiving an electronic instruction from the deposit applicant, notifying and authorizing at least one selected deposit-taking institution to access a real identity and personal information of said applicant for a second selected period of time.

25 The examiner provided evidence from Huberman Col 5 lines 10-30 where it says that broker provide the name and internet address of the winner to requester and the requester can contact directly or through broker, the substance of the job for printing and the billing requirements. In our claim, the would be depositor directly selects the deposit taking institution allowing access to the depositor's real identity for a period of time without the aid of a broker. In Huberman, requester
30 gets suppliers' contact from broker while in our claim depositor's contacts (requester in Huberman) contacts are provided to selected deposit taking institution (supplier in Huberman); ie showing complete reverse of information direction from Huberman.

The key is in deposit applicant able to initiate the electronic instruction rather than responding to
35 the broker's submission of names of bidders. In short, Huberman teach that during the auction period the requester has no knowledge who the bidders are (hence as evidence the provision of name and internet address) or the bids amount until the broker informs said post auction. In short, the requester is not a party to the auction process itself and since it is not a party then the question whether said is anonymous is moot as it is represented by the broker. Further, in addition to having

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unfettered access to the bidders/bids during the auction and post auction without a broker process as in Huberman, this claimed section clearly shows the operative "notifying and authorizing" are initiated and controlled by the deposit applicant by setting a second period for access. Obviously these are not found in Huberman as reliance is placed on the brokering process rather than initiated by deposit applicant.

By way of an example, the auction could be run for 7 days but in the 3 rd day the deposit applicant decided to "notify and authorize" a selected bidder and gave 24 hours for said to do the necessary. This is significant as the whole process is being controlled by the applicant and not via a third party

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such as a broker, distinguishing Huberman.

In short the depositing auction process is conditional on receiving the real identity, the funds and further to acceptance by the deposit taking institution. This means while the winning deposit terms are accepted, the deposit taking institution can still decline to complete the transaction subject to

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satisfactory real identities and verification of deposits. As mentioned, the only benefit for the deposit taking institution is to obtain the real identities of the depositors by the auction process while in Huberman, the benefit is to finalize the job. This is clearly alluded by Huberman where upon receiving the contacts of the supplier, the requester then select and follow up by transmitting billing details. The diagram below would be illustrative to our explanation.

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	Huberman	Our claim
During Auction	Requester has no way to select the bidders or know the bids submitted during the auction. Requester is not part or even have access to the auction itself and has to rely on broker to provide the details.	Our deposit applicant has access to the bidders' identities and bids terms during the auction. Said applicants can notify and provide access to their real identities. Selected deposit-taking institution receives real identities by accessing it for a period of time.
Post Auction	Broker submit a list of winners to requester to select, lists includes real identities of said suppliers. If selected then requester's billing information is provided to supplier to formalize the document service contract.	Our deposit applicant has access to the bidders' identities and bids' terms post auction. Said applicants can notify and provide access to their real identities. Selected Deposit-taking institution receives real identities by accessing it for a

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		period of time.

In sum, we therefore submit that not all elements have been anticipated by Huberman and in
particular, the elements of handle, anonymity, deposit auction system, bid comprising responsive
deposit terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms
5   of exchange, deposit application comprising permissible personal information, money, securities
deposit terms of offer, notification and authorization by deposit applicant to access real identity of
said. ("Anticipation under 35 USC 102 requires the disclosure in a single piece of prior art each
and every limitation of a claimed invention ") Apple Computer, Inc V Articulate Sys., Inc 234F.3d
14,20 (Fed Cir 2000)
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Apart from the missing elements, anticipation also requires that each elements found in Huberman "
arranged as in the claim " (Lindermann Maschinenfabrik GmbH V American Hoist & Derrick Co .,
730 F.2d 1452, 221 USPQ 481,485 (Fed Cir 1984) (citing Connell V Sears, Roebuck & Co., 722
F.2d 1542, 220 USPQ 193 (Fed Cir 1983)) (emphasis added).
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In this respect, we found that Huberman relied on the brokering process to bridge between the
requester and supplier. For instance in our claimed invention, the deposit applicant provides the
anonymous application directly for displayed over the network while Huberman taught of broker
broadcasting targeting specific suppliers.
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The deposit applicant selected deposit-taking institution for access to its real identity but in
Huberman, this is shown by having the suppliers' identities being provided to requester for
selection. This reversal of flow for identifying means the elements are not arranged as in the claim.

25   Also critical is that, in claim 15 the deposit applicant has full knowledge of the bidders and their
bids during the auction period. It does not appear in Huberman that the requesters have access to
these information during the bidding process by virtue of using a brokering process. If the
requester has said access then there is no need for a brokering process. This is the significant
difference between having access to real identity to requester and access to the supplier's
30   information as in Huberman. The fact that Huberman taught of using a broker process not found in
our claimed invention means functionally it is different from our claimed invention.

Applicant therefore respectfully submit that this claim be allowed.

35   **Amendment Notes**: In this claim at section (c) we have added the words "at least one of " . We
submit this is not New Matter as this is explicit in our specification at the time of submission that

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bids may comprising in any form of the claimed elements. See in our specification at page 8 line 5
(underlined added for clarity)

". An approved bidder may submit bids in any form including rate of borrowing, other financial

5   assets in the form of opportunities for any of the applicants listed to the server computer over a

computer network, or revise or withdraw from any bids he/she submitted before they are

accepted."

Claim 16

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The examiner asserted that Huberman discloses a step of receiving from deposit applicant
communicate over the network, an electronic instruction selecting at least one of responsive
deposit taking institutions bided for said depositor's application.

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Claim 16 is dependent on Claim 15 and hence covers all the elements expressed therein and as we
have submitted are not anticipated by Huberman. On its own, this Claim merely shows deposit
applicant selecting a deposit taking institution but Huberman only teaches selecting printing
supplier. The examiner provided evidence from Col 3 lines 45-65 and Col 4 lines 5-65 which shows
20   broker process either selecting a winner or preparing a number of winners for selection by
requester. There is no broker process in our claim and we are not selecting document service
suppliers being supplier by said.

As for evidence Col 19 lines 45-60 and Col 20 lines 5-10, these are referencing Claim 1 of
25   Huberman of the broker process selecting the customer and supplier and proposing the selection
for a commercial transaction which we must submit does not show our deposit applicant selecting
the deposit taking institution. To anticipate a claim every element including deposit taking-
institution and deposit applicant must be shown.

30   We respectfully submit this claim should be allowed

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Claim 17

5   The examiner asserted that Huberman discloses a step to verify the ownership of money, securities
or financial equivalent and provided Col 1, lines 15-20 and Col 3, lines 40-55.

The evidence shows document services such as " printing, scanning, interpretation, binding,
colorization, transmission, mailing, conversion and authentication, searching " etc. But note that
authentication is further defined as within a document or in a database of documents at Col 1, line
10   21-22. Surely this is not the same as verifying ownership of money, securities etc.

But this begs the question whether "authentication" as described in Huberman means specifically
for money, securities or financial equivalent verification of ownership. In short, could a document
service supplier capable of verifying ownership of money etc. If they have such skills why would
15   they be document service providers ?

Document service providers are further defined as professional print shops of publisher or in house
corporate or government document services departments at Col 3 line 40-45. Documents are for
example annual reports as per Huberman's example in Col 5 and even if we can extend this to
20   provision of printing money, securities and financial equivalent, this by itself does not mean printing
houses could verify ownership of said.

Printing houses as in Huberman refers to the service of printing and in the process of printing of
security document such as money, shares certificates etc, these must be checked or authenticated.
25   In our claim, its simply to verify whether the depositor is the owner of the money or shares by
checking the account details for sufficient funds to be deposited which is an electronic process by
way of the usual banking network. We are doubtful printing houses are performing such
verifications given that they cannot even take deposits by law and even if they can, this does not
bestow the unknown skill on them. They may be able to check if the presented money is real but
30   that is not the same as verifying the ownership of the money etc.

We respectfully submit that elements discussed above have not been anticipated by Huberman and
hence this claim should be allowed

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Claim 18

5   The examiner has grouped Claim 18 under Claim 15 above but we beg to differ as the substance of
Claim 18 is not found in Claim 15. As this claim is dependent on Claim 15 hence it incorporates all
our rebuttal as per Claim 15. Claim 18 is repeated below for clarity for rebuttal separately.

"The method according to Claim 15, further comprising a step of maintaining data representative of
10   bids for the depositor's application in a database accessible to users over a network, said data
comprising deposit terms, type of guarantees, payment schedule, deposit rate, securities in
exchange and terms of exchange information on each of a plurality of submitted responsive bids. "

The most pertinent point here is that the data is accessible to users including other potential
15   depositors and deposit taking institutions (in Huberman to read other requesters and suppliers) .
The fact that the broker has to provide the winner's details including bided price to complete the
transaction means Huberman did not suggest requester having access to the bidder's data or bid
information during the auction process. (Col 3 line 65 to Col 4 line 5)

20   In Huberman, it is clear that the broker transmitted the job request to print supplier (publisher) as
per Col 5 line 1-10. The question is whether it can also transmit the job to other users such as print
job requesters/applicant (people who wants to publish their own books rather than supplier) ?
And is it useful to do so ? Our claim here clearly shows the difference between the two methods
and the underlying subject matter being one of anonymous deposit application being displayed.
25   Huberman actually describes that it can accommodate any type of auctions and gave examples in
Col 10 line 35 to line 67. It prefers sealed bid second price auctions, english and dutch auctions.
Irregardless, what type of auctions Huberman may have contemplated, that by itself does not
anticipate its bid data having elements as above or corresponding deposit application accessible to
all users. And given the broadcasting approach as taught by Huberman, we are convinced that it is
30   more probably that said broadcasting is targeted and private in contrast to our need for displaying
publicly.

We respectfully submit that elements discussed above have not been anticipated by Huberman and
hence this claim should be allowed.
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Claim 19

5   The examiner has grouped Claim 19 under Claim 15 above but we beg to differ as the substance of Claim 19 is not found in Claim 15. As this claim is dependent on Claim 15 hence it incorporates all our rebuttal as per Claim 15. Claim 19 is repeated below for clarity.

" The method of according to claim 15, adapted to further promote a completely anonymous
10   deposit auction comprising:

assigning a handle to conceal a real identity of the deposit taking institution. "

We respectfully transverse the examiner's rejection. Huberman has no teaching of deposit taking
15   institution and printing supplier even by the widest definition could not be a deposit taking institution which for one usually licensed to take deposit, a specialist business. There is no teaching of concealing of supplier identities in Huberman. And the fact that we are claiming a completely anonymous deposit auction means in Huberman, the broker, requester and supplier must be anonymous to anticipate.
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We respectfully submit that elements discussed above have not been anticipated by Huberman and hence this claim should be allowed.

25   ## Claim 24

This claim is primarily a system claim based on method of claim 15 and hence dependent on claim 15 incorporating all its elements as previously discussed above which we submit as not anticipated
30   by Huberman.

The examiner provided further evidence to show a " system" under Col 20 line 20-30. We submit that Huberman did not show a deposit auction system. Huberman shows a system for soliciting document services which is not the same as one for a deposit auction as alluded in our application.
35

For the reason above and in addition to depending on elements found in method claim 15, we respectfully traversed this rejection.

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Title: System and method for conducting an electronic financial asset deposit
auction over computer network

Claim 25.

5   This claim is primarily a system claim based on method of claim 16 and hence dependent on claim
16 incorporating all its elements as previously discussed above which we submit as not anticipated
by Huberman.

The examiner provided further evidence to show a " system" under Col 20 line 20-30. We submit
that Huberman did not show a deposit auction system. Huberman shows a system for soliciting
10 document services which is not the same as one for a deposit auction as alluded in our application.

The examiner further provide col 3 and lines 45-65, col 4 lines 5-65 and col 19 lines 45-60 and col
20, lines 5-10.

15 The elements here are similarly found in Claim16 and hence we submit the same as we did in
rebutting Claim 16.

For the reason above and in addition to depending on elements found in method claim 15, we
respectfully traversed this rejection.
20

Claim 26.

25 This claim is primarily a system claim based on method of claim 17 and hence dependent on claim
17 incorporating all its elements as previously discussed above which we submit as not anticipated
by Huberman.

The examiner provided further evidence to show a " system" under Col 20 line 20-30. We submit
30 that Huberman did not show a deposit auction system. Huberman shows a system for soliciting
document services which is not the same as one for a deposit auction as alluded in our application.

For the reason above and in addition to depending on elements found in method claim 17, we
respectfully traversed this rejection.
35

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Claim 27

5   This claim is primarily a system claim based on method of claim 18 and hence dependent on claim
     18 incorporating all its elements as previously discussed above which we submit as not anticipated
     by Huberman.

     The examiner provided further evidence to show a " system" under Col 20 line 20-30. We submit
10   that Huberman did not show a deposit auction system. Huberman shows a system for soliciting
     document services which is not the same as one for a deposit auction as alluded in our application.

     The examiner further provided evidence Col 1 lines 15-20 which shows document services
     including printing, copying, scanning, ...and many others." We submit these elements do not show
15   our bid elements since it is well known that document services have no relationship with terms of
     exchange, deposit terms, type of guarantees etc relevant to the business of deposits.

     For the reason above and in addition to depending on elements found in method claim 18, we
     respectfully traversed this rejection.
20

Claim 28

25   This claim is primarily a system claim based on method of claim 19 and hence dependent on claim
     19 incorporating all its elements as previously discussed above which we submit as not anticipated
     by Huberman.

     The examiner provided further evidence to show a " system" under Col 20 line 20-30. We submit
30   that Huberman did not show a deposit auction system. Huberman shows a system for soliciting
     document services which is not the same as one for a deposit auction as alluded in our application.

     For the reason above and in addition to depending on elements found in method claim 19, we
     respectfully traversed this rejection.
35

Claim 29

5   This claim is an article of manufacture incorporating the method of claim 15. The examiner
provided Col 1 lines 15-20 and Col 3 lines 45-55. Both these evidences show the type document
services which as we submit are unrelated to deposit auction system or one incorporated as
executable codes from method 15. We also submit that the issue here is whether these codes
designed to perform the steps in method 15 is anticipated by Huberman which we have already

10   rebutted earlier. We therefore respectfully traversed this rejection and we respectfully ask this claim
to be allowed.

Claim 30

15

Claim 30 is dependent on Claim 16 and we respectfully submit our rebuttal as in Claim 16 since
their elements are common and only differ by the class.

20   Similarly, we ask claim 30 to be allowed.

Claim 31

25   Claim 31 is dependent on Claim 17 and we respectfully submit our rebuttal as in Claim 17 since
their elements are common and only differ by the class.

Similarly, we ask claim 31 to be allowed.

30

Claim 32

35   Claim 32 is dependent on Claim 18 and we respectfully submit our rebuttal as in Claim 18 since
their elements are common and only differ by the class.

Similarly, we ask claim 32 to be allowed.

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Claim 33

5   Claim 33 is dependent on Claim 19 and we respectfully submit our rebuttal as in Claim 19 since
       their elements are common and only differ by the class.

       Col 3 line 55 shows " ...services job done can provide a request for these services to a broker "
       Our claim is for an article of manufacture claiming executable codes found to perform steps found
10   in claim 19 which reference providing anonymity to the deposit taking institution. We respectfully
       traversed this rejection as the evidence shown has nothing to do with anonymity nor deposit taking
       institution or combine.

       Similarly, we ask claim 33 to be allowed.
15

Claim 34.

20   The examiner has provided " interpretive " see Col 3 line 55 but in this claim the anonymity
       requirement is not found in the pre-amble and instead in the body. Instead the pre-amble shows " a
       database of deposit applications " which we submit is not found in Huberman being a broker for
       document services.

25   The examiner asserts means for receiving a deposit application is read as a request in Huberman.
       This reasoning still fail since Huberman did not show the means of receiving deposit application
       which is not the same as receiving anything or document service request.

       As to the substance and form of the deposit application, the examiner provided Col 3 line 65 and
30   Col 4 line 5-15 which read providing the customer (requester in Huberman) the right to confirm the
       term of deal before agreeing and about upper prices and broker offering a number of winners for
       requester to pick etc. We submit this is not relevant to our need to provide a deposit application
       providing personal information, money, securities or financial equivalent deposit offer terms. In
       short, deposit offering terms could not be the same as document service requests with or without a
35   upper price for the bids or able to select winners from brokers. It is quite evident as seen from one
       skilled in the art by providing a document service request to a deposit-taking institution will not
       result in a responsive deposit bid by said institution. Similarly, a broker or printer supplier in
       Huberman would not know what to do with a deposit application indicating terms of offer simply

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because they are not in the same business and hence logically their requests or applications could not be anticipated or be similar.

As per anonymity as found in subsection (b), the examiner presented the previous evidence
5 "interpretive" and col 3 line 55. This as we have mentioned in Claim 15 has not shown any anonymity feature inherently nor the fact that using a broker service, there is a need to be anonymous or anonymity means have actually been shown in Huberman. The examiner provided no reasoning how this is inherent nor is it ordinarily known that by subscribing to a broker service, anonymity means must necessarily exist. Secondly, there is also no suggestion for displaying the
10 deposit application as per Huberman and Col 4 lines 45-65 and Col 5 lines 5-30 merely shows the broker broadcasting to suppliers.

As for subsection (c) the examiner provided evidence at Col 3 line 65 and Col 4 line 5-15 to show depositing terms. The evidence provided shows how the document service requester could select
15 the winner from a number of winners provided by the broker and a way for said requester to confirm a deal. We submit this has nothing to do with our bid in deposit terms which simply show the deposit-taking institution providing terms for depositing funds representing his or her institution, totally unrelated to said evidence. The examiner further provide evidence from Huberman Col 3 lines 45-65, Col 4 lines 5-65 which details the type of document services that a
20 supplier can provide which we submit said services have no relation to deposit taking business. How do one reconcile submitting a bid for colorisation service to a customer wanting to deposit US 100,000 a year as stated in his deposit application ? Lastly the examiner provided the Claims 1 from Huberman as further evidence to show the elements with subsection (c). The claim merely states "submitting a set of bids for the document service.." but the question is whether submitting
25 these bids show our 'elements' comprising the bids which are not even known in Huberman.

As for part (d) the examiner provided Col 5 lines 10-30 which reflects what was said about the broker providing the winner supplier to the requester. However our elements here clearly shows the deposit applicant providing authorization to access his real identity by deposit taking institution
30 for a period. This means the depositor must have accessed first to select first without being supplied by broker as in Huberman.

But more pertinent is the evidence in Huberman actually shows the requester receiving information about supplier while in our claim is the selected deposit institution receiving the real identity of the
35 depositor. Since it is clear there is no anonymity in Huberman, the element 'real identity' is not supplied.

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We respectfully traversed this rejection for the reasons above and ask the examiner to allow this
claim. We have in addition made a minor amendment by in sub-section (c) to correspond with the
amendments in Claim 15 and for the same reason.

5

Claim 35.

The examiner has grouped this claim together with Claim 34 but Claim 35 actually refers to
10 selecting one of the deposit taking institution and not a supplier (document service provider). As
mentioned, in Huberman, the broker actually selects the winner or provide a few providers for
requester to select which does not anticipate the deposit applicant selecting the deposit taking
institution directly, both elements not found in Huberman given the non analogous subject matter
of deposit auction.

15

Claim 36

20 This claim according to the examiner at the outset is rejected by 102 (e) but it is restated in page 6,
this claim is rejected by 103(a) in view of Brown 6,167,386. The examiner stated that Huberman
fails to explicitly teach means for verifying the ownership of said money etc.

We submit this is in contrast to the Examiner's statement in Claim 17 providing evidence Col 1
25 lines 15-20 and Col 3 lines 40-55 to show authentication of ownership of said money, which we
have submitted do not show this.

We also note that although the examiner cited this as a 103 (a) rejection, no motivation or
suggestion is provided to combine with Brown. The examiner asserted at page 7 " However
30 verifying the ownership and authenticity of a document is old and well known in the art because the
document would have had to consist of an identification number, name of the owner and date
acquired. Therefore it would have been obvious to one of ordinary skill in the art at the time the
invention was made to modify the teachings of Huberman to include verifying the ownership and
authenticity of a document because the document would have had to consist of an identification
35 number name of the owner and date acquired. If this is correct, and the name, number and date
acquired are easily found on the document, why the need for 'verification of ownership' as these
can be match upon inspection ? Furthermore, we are certain cash does not have name or date of
acquired on it and as for shares which could be physical or digital, the means for verifying
ownership is not merely one of physical inspection as suggested by the examiner. Furthermore, the
40 examiner did not cite any references or publication nor does the Examiner provided any other

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evidence to support this contention. It also appears that the examiner has used personal knowledge here to bridge the gap in showing obviousness.

5   "In re Lee, 277 F.3d at 1345, 61 USPQ2d at 1435, the court said that such "knowledge must be articulated and placed on the record." Id. The court further explained that 'deficiencies of the cited references cannot be remedied by the Board's general conclusions about what is 'basic knowledge' or 'common sense.' Id. at 1344, 61 USPQ2d. "

10   We beg to disagree as the "document" here in our claimed invention is NOT a book or the kind for printing. Its money or securities that are found in bank/stock accounts even numbered accounts in some countries which are usually untraceable hence known as numbered accounts. For example, the depositor would provide a bank account number in Switzerland and our system has to check whether the stated funds are available and verifiable to the depositor (owner). Similarly for stock holdings both physical and electronic against a share registry. Only when it is confirmed and the
15   ownership is authenticated then the money can be transferred to the deposit taking institution for agreed deposit facilities. This is a common requirement for deposit taking institution for huge deposit where they have to make reference to Banking regulators of those countries prior to accepting the funds. We are very doubtful this is common in document service industry to verify money or shares or whether there is sufficient motivation to modify a document service auction
20   system to verify money accounts. Secondly, we are unsure how Brown's patent is being connected here as it teaches "Method for conducting an on-line bidding session with bid pooling" to combine with Huberman. There does not seem to be any connection here with verification of ownership.

And even if verification of ownership is well known in the art, it is not well known to do so as in
25   our claimed invention.

Therefore we must respectfully ask this claim to be allowed.

30

Claim 37

This claim made reference to providing access to the various bids data which are not found in
35   Huberman as they are not related to document services. Further as we have pointed out the fact that the broker has to provide the winner's details including bided price to complete the transaction means the requester in Huberman do not have access to the bidder's data or bid information during the auction process. (Col 3 line 65 to Col 4 line 5)

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As mentioned, none of the elements making up the bid are shown in Huberman.

Therefore we must respectfully ask this claim to be allowed.

5

Claim 38

This claim refers to complete anonymity for both deposit applicant and deposit taking institution
10   and particularly by providing a means for a handle for the deposit institution not previously found
in its dependent Claim 34. The evidence provided seems to be unresponsive as the examiner has
group this Claim under Claim 34 but it is evident this element for complete anonymity could not be
supplied by interpreting "brokering" process as previously in Claim 15 and Claim 34.

15   In particular, the complete anonymity factor is pertinent.

Firstly, Huberman only teach of a document service auction being brokered and by itself does not
show whether the anonymity element is found. The examiner has interpreted this but without
showing any evidence. We submit that in the event both requester and suppliers are anonymous to
20   the broker then it will be a futile exercise since it is not possible to contract with anonymous parties
(law of privity).

And because we do not use a broker, the users could control this real identity information and
decide who can have access or denying those during and after an auction. This may not be the same
25   for a broker system where the broker must know the real identity of the contracting parties so it
can forward this information.

Conclusion.
30

For a 35 USC 102(e) rejection, every element must be anticipated such as deposit auction system,
anonymity for offeror, displaying anonymous deposit application, open bids accessible to all,
deposit terms etc. The critical shortfall in Huberman is its novelty for document service auction
35   which is unrelated to our claimed invention for open bids and elements and the fact there is no
teaching of anonymity for deposit applicant. It is just as important to recognize that the subject
matter of the invention as a whole " deposit auction" is not even anticipated by Huberman.
Reconsideration of the all rejections is respectfully requested.

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Declaration 37 CFR 1.132

5   I hereby declare that all statements made herein of my own knowledge are true and that all
     statements made on information and belief are believed to be true; and further that these statements
     were made with the knowledge that willful false statements and the like so made are punishable by
     fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that
10   such willful false statements may jeopardize the validity of any application, any patent issuing
     thereon, or any patent to which this verified statement is directed.

15

20
     Khai Hee KWAN

25
     Date: April 22, 2004

     315 Avoca St,
30   Randwick, NSW 2031
     Australia

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Without conceding the validity of the examiner's argument as per action letter mailed 29 Jan 2004, and to expedite prosecution of the application, the claims 15 and 34 are hereby amended as below.

APPENDIX 1

1-14 (PREVIOUSLY DELETED)

15. (Currently Amended) A method for soliciting competitive terms of deposit operating on a deposit auction system, said system including a programmed computer connected to a network accessible by a plurality of users within a first selected period of time and anonymity means for concealing the identities of deposit applicants, the method executable at said computer comprising:

a) receiving deposit application from a prospective depositor who is a respective one of the users, wherein said application comprising permissible personal information and money, securities or financial equivalent deposit offer terms as subscribed by the prospective depositor ;

b) assigning a handle to conceal a real identity of the said prospective depositor and displaying said depositor's application anonymously;

c) receiving from at least one deposit-taking institution, who is a respective one of the users communicating over the network, at least a respective one of the responsive bids for said deposit application wherein said bid comprises at least one of responsive deposit terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange; and

d) receiving an electronic instruction from the deposit applicant, notifying and authorizing at least one selected deposit-taking institution to access a real identity and personal information of said applicant for a second selected period of time.

16. (Previously Presented) The method according to claim 15, further comprising a step of receiving from deposit applicant communicating over the network, an electronic instruction selecting at least one of responsive deposit-taking institutions bided for said depositor's application.

17. (Previously Presented) The method according to claim 15, includes a step of verifying the ownership of said money, securities or financial equivalent as subscribed by deposit applicant.

18. (Previously Presented) The method according to claim 15, further comprising a step of maintaining data representative of bids for the depositor's application in a database accessible to

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users over a network, said data comprising depositing terms, type of guarantees, payment schedule,
deposit rate, securities in exchange and terms of exchange information on each of a plurality of
submitted responsive bids.

5   19. (Previously Presented) The method according to claim 15, adapted to further promote a
completely anonymous deposit auction, comprising :

assigning a handle to conceal a real identity of the deposit taking institution.

10   20. (PREVIOUSLY DELETED)
      21. (PREVIOUSLY DELETED)
      22. (PREVIOUSLY DELETED)
      23. (PREVIOUSLY DELETED)

15   24. (Previously Presented) A deposit auction system including a computer connected to a network
programmed to perform the method of Claim 15.

      25. (Previously Presented) A deposit auction system including a computer connected to a network
programmed to perform the method of Claim 16.
20
      26. (Previously Presented) A deposit auction system including a computer connected to a network
programmed to perform the method of Claim 17.

      27. (Previously Presented) A deposit auction system including a computer connected to a network
25   programmed to perform the method of Claim 18.

      28. (Previously Presented) A deposit auction system including a computer connected to a network
programmed to perform the method of Claim 19.

30   29. (Previously Presented) Computer executable software code stored on a computer readable
storage medium implementing the method of claim 15.

      30. (Previously Presented) Computer executable software code stored on a computer readable
storage medium implementing the method of claim 16.
35
      31. (Previously Presented) Computer executable software code stored on a computer readable
storage medium implementing the method of claim 17.

      32.(Previously Presented) Computer executable software code stored on a computer readable

storage medium implementing the method of claim 18.

33. (Previously Presented) Computer executable software code stored on a computer readable storage medium implementing the method of claim 19.

5

34. (Currently Amended) A deposit auction system for soliciting competitive terms of deposit connected to a network, said network comprising at least one client computer and a programmed computer further comprising a database of deposit applications, said network accessible by a plurality of users within a first selected period of time, comprising:

10

a) means for receiving a deposit application from a prospective depositor who is a respective one of the users, wherein said application comprising permissible personal information and money, securities or financial equivalent deposit offer terms as subscribed by the prospective depositor;

15   b) anonymity means for assigning a handle to conceal a real identity of the said prospective depositor for displaying said depositor's application anonymously;

c) means for receiving from at least one deposit-taking institution, who is a respective one of the users communicating over the network, at least a respective one of the responsive bids for said
20   deposit application offer wherein said bid comprises ~~at least one of~~ responsive depositing terms, type of guarantees, payment schedule, deposit rate, securities in exchange and terms of exchange; and

d) means for receiving an electronic instruction from the deposit applicant, notifying and
25   authorizing at least one selected deposit-taking institution to access a real identity and personal information of said applicant for a second selected period of time.

35. (Previously Presented) The system according to claim 34, further comprising means for receiving from deposit applicant communicating over the network, an electronic instruction
30   selecting at least one of responsive deposit-taking institutions bided for said depositor's application.

36. (Previously Presented) The system according to claim 34, further comprising means for verifying the ownership of said money, securities or financial equivalent as subscribed by deposit
35   applicant.

37. (Previously Presented) The system according to claim 34, further comprising means for maintaining data representative of bids for the depositor's application in a database accessible to users over a network, said data comprising depositing terms, type of guarantees, payment schedule,

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deposit rate, securities in exchange and terms of exchange information on each of a plurality of
submitted responsive bids.

38. (Previously Presented) The system according to claim 34, adapted to further promote a
5   completely anonymous deposit auction, by including means for assigning a handle to conceal a real
identity of the deposit taking institution.

-end-

10